# Human Resources and Organisational Development

# Grievance policy and procedure

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# Grievance Policy

## Purpose

* 1. The Council is committed to providing a working environment where individuals are treated with fairness, dignity, and respect. This policy and procedure exist to help to resolve grievances which members of staff may have about their employment, fairly and promptly, and as near as possible to the point of origin.
	2. It can be used for any matter arising directly out of a staff member’s employment, except where another procedure exists for that purpose. The policy can be used for incidents during the course of employment including activities, occasions or events that are connected to work and the workplace, and those which may not necessarily take place in the workplace or during normal working hours.
	3. Day-to-day issues should normally be resolved through dialogue between staff members and their manager. Most issues can be resolved in this way, sometimes by acknowledging that although a matter may have created annoyance, it can best be handled by simply talking it through and then taking no further action.

## Grievances related to harassment, discrimination and bullying

2.2 The Council has a zero-tolerance approach to all forms of discrimination, harassment and bullying. The Council, its Chief Executive and senior managers are firmly committed to this policy and to dealing with unwanted, unacceptable and discriminatory behaviour.

2.3 This policy will support and promote a working environment in which harassment, discrimination and bullying are unacceptable and where individuals have the confidence to complain, without fear of reprisals and in the knowledge that their concerns will be dealt with appropriately and fairly. Where respect for diversity, inclusion and equality of opportunity exist, staff can work in a more rewarding and less stressful environment that is more likely to enhance performance and achievement and allows everyone to fully utilise their skills and talents and achieve their full potential.

* 1. Any allegation of harassment, discrimination or bullying will be treated seriously. If proven, such behaviour may result in disciplinary action being taken against the perpetrator(s).
	2. Definitions of Harassment, Discrimination and Bullying are as follows:
* **Harassment**: Harassment is unwanted conduct which an individual find offensive or which makes them feel intimidated or humiliated, this includes sexual harassment. Unwanted behaviour could be spoken, or written words or abuse. Members of staff can also complain of behaviour that they find offensive even if it is not directed at them, but at another staff member.
* **Discrimination**: Discrimination takes place when an individual or a group of people is treated less favourably than others because of their race, gender, gender reassignment, marital status, status as a civil partner, disability, age, religion or belief, sexual orientation, gender identity, gender expression or other factors unrelated to their ability or potential.
* **Bullying**: Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. While bullying and harassment are related, bullying is usually intentional. When deciding whether bullying or harassment has occurred, the impact on the individual and whether the behaviour is unacceptable by normal standards will be the focus, rather than motive or intent.

2.6 Examples of harassment, discrimination or bullying is provided in Appendix 1. Any difficulty in defining harassment, discrimination or bullying should not prevent a staff member from seeking support or raising issues about behaviour which causes them distress. Every staff member will be positively supported by management and HR when they raise a concern/complaint.

## Scope

3.1. This policy applies to all Council staff. It does not apply to contractors or agency workers.

* 1. This policy does not cover grievances where other means to address or resolve the issue is available, for example:
* dismissal or disciplinary matters (for which there are separate appeal procedures). Grievances that are raised whilst a staff member is subject to disciplinary or other formal proceedings will usually only be heard when the disciplinary process has been completed. If the grievance is related to the disciplinary proceedings, this will be considered in the disciplinary process as mitigation and not as a separate matter where they are clearly interrelated.
* issues relating to Income Tax, National Insurance, and pension rights
* matters covered by national agreements or statute where the Council has no discretion or authority in the matter;
* disputes over which the Council has no control e.g. disputes between two members of staff as private individuals outside of the Council’s employment;
* pension appeals;
* job evaluation appeals, organisational change appeals and all other policies and procedures for which there is a separate appeal procedure.
	1. The policy can be used for individual and collective grievances, but must not be used for matters which should more properly be discussed within the normal joint consultative process that the Council has in place with its recognised trade unions.

## Responsibilities

4.1 It is the responsibility of every staff member to help us achieve an inclusive and supportive environment, and to promote good relations between staff by being tolerant and having respect for diversity. The Council expects individuals to behave in a way that is consistent with the Code of Conduct and its TOWER values (Together, Open, Willing, Excellent, Respect).

4.2. Managers are responsible for ensuring that all grievances are taken seriously and promptly addressed. It is also managers’ responsibility to ensure harassment, discrimination and bullying is not permitted and to challenge unacceptable behaviour.

* 1. All staff grievances, including issues of harassment, discrimination or bullying should be raised in a timely manner in order that any incident can be addressed at the earliest opportunity.
	2. HR will provide management advice and support, and impartial advice to any staff member on the application of this policy.
	3. The Council recognises that a formal grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated with respect. The Council will not tolerate abusive or insulting behaviour from anyone taking part in, or dealing with grievance procedures, or for staff to be victimised as a result of initiating or taking part in the process, and will treat any such behaviour as misconduct under the disciplinary procedure.

## Right to be accompanied

5.1 Staff have the right to be accompanied by a workplace colleague or trade union representative at any formal grievance meeting, interview, or subsequent appeal.

## Accessibility

* 1. The Council recognises it has a duty to make reasonable adjustments under the Equality Act 2010.
	2. When handling issues under this procedure the deciding manager will ensure that equality diversity and inclusion are considered at every stage of the process. For example, if any aspect of the grievance procedure causes a staff member difficulty on account of any disability that they have, or if they need assistance because, for example, English is not their first language, the individual concerned should raise this issue with the manager hearing the grievance or HR for appropriate arrangements to be put into place.

## Confidentiality

* 1. Grievances can raise strong feelings and may have serious consequences, which is why staff involved in a grievance have an obligation to maintain confidentiality as far as possible. This applies at every stage, including the investigation and the outcome. Breaches of confidentiality may constitute a disciplinary offence.
	2. In certain circumstances the evidence given by individuals may have to remain confidential. Where confidentiality is justifiable and necessary, this will be explained. The Council will always interpret this policy in line with the considerations of natural justice.

## Record Keeping

* 1. Notes of interviews should be followed up in writing (this can be by email) and the individual given the opportunity to add their comments to the note of the meeting. Individuals interviewed as part of this procedure should be aware that their notes will be shared with others, either in full, or redacted to protect their identity where appropriate.
	2. It is the deciding manager’s role, both during and after the process, to ensure that all documentation is kept securely, and sent back to the relevant HR team for retention. Information disclosed during the process must be treated with sensitivity and confidentiality and kept in accordance with the General Data Protection Regulations 2016.
	3. Any party involved is not normally permitted to record electronically any meeting as part of the grievance procedure. Any breach of this provision may lead to disciplinary action, up to and including dismissal.

## Mediation

9.1 Mediation is a confidential process whereby an impartial third party (a trained and qualified mediator) assists individuals or groups who have a dispute and/or where there is a break-down in relationship(s). The process is based on the principle of problem solving, but with a strong emphasis on the future and building relationships. Participation in mediation is voluntary and will only proceed with the agreement of all parties. We would encourage staff to consider mediation wherever appropriate.

## Vexatious, malicious and false complaints

* 1. Any staff member who is proven to have made a vexatious, malicious or false complaint, including a claim of harassment, discrimination or bullying or any other issue, with be dealt with in accordance with the Disciplinary Procedure. This may be considered gross misconduct and could lead to dismissal.

## Other policies

11.1 Whistleblowing: If the issues raised are in the public interest i.e., not just related to a personal employment dispute, it may be more appropriate for the matter to be raised under the whistleblowing procedure as a protected disclosure. The whistleblowing procedure should be used where an individual reasonably believes that either:

* a criminal offence has been committed
* a legal obligation has been breached
* a miscarriage of justice has occurred
* the environment has been damaged
* and/or there has been a deliberate attempt to conceal any of the above

The individual must believe that the disclosure of this information is in the public interest. This means that **the disclosure should be** something that benefits the public. Most employment grievances do not meet this definition because they are matters of personal **interest**. The whistleblowing procedure enables staff to remain anonymous, if they so choose, and gives them statutory protection.

11.2 Data Protection: The Council processes personal data collected for formal complaints in accordance with its [data protection policy](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.xperthr.co.uk%2Fpolicies-and-documents%2Fdata-protection-policy%2F162690%2F&data=04%7C01%7Cgail.simpson%40towerhamlets.gov.uk%7Cde4110e4f5274ab4ffba08d8cf4a9c65%7C3c0aec87f983418fb3dcd35db83fb5d2%7C0%7C0%7C637487266752813230%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=zWyfmXRNp4j8az%2F4ug4vRgCd%2F0wzT%2FwpjAeNXFVY9R8%3D&reserved=0). Inappropriate access or disclosure of data constitutes a data breach and should be reported in accordance with the Council’s Data Protection Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Council’s Disciplinary Procedure.

11.3. Disciplinary/Capability: If the complaint being raised is sufficiently serious, then the line manager may deal with the matter using the disciplinary or capability/unsatisfactory performance procedure as appropriate. Any staff member subject to a complaint will be informed as soon as possible about this. If the behaviour complained about appears to amount to gross misconduct, suspension may be warranted. This will be handled in accordance with the suspension process contained within the disciplinary procedure. It may also be necessary to consider moving one or both of the parties for the duration of any investigation and this will be considered at the start of the formal process. A grievance raised by a staff member whilst subject to disciplinary proceedings will usually be heard only when the disciplinary process has been completed. However, if a grievance has any bearing on the disciplinary proceedings, it can be raised as a relevant issue during the course of those proceedings.

# Grievance Procedure

## Informal Stage

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12.1 If a staff member is unhappy about treatment they have received or an aspect of their employment they should raise their concern at the point it arises; this early intervention is most likely to enable a successful outcome.

12.2 An informal grievance may be raised verbally or in writing.

12.3 Staff are encouraged to settle grievances informally in the first instance with their line manager (or a more senior manager, or if the line manager is the subject of concern). If the grievance is deemed serious, it may be determined that it should be dealt with formally. If a matter needs to be investigated see the process in section 13.4 below.

12.4 If a grievance involves another staff member, they are encouraged to discuss the matter directly with the person concerned without unreasonable delay, and explain that the behaviour is unwelcome, inappropriate, or upsetting. In situations where there is conflict between colleagues, or a staff member and their line manager, it is expected that a respectful, open conversation should enable a resolution to be found. Most complaints between members of staff can be resolved informally through discussions. Where the individual does not feel able to do so they can approach their line manager, who will attempt to resolve the matter on an informal basis, including offering mediation. Where a staff member feels unable to approach their line manager, if, for example, the line manager is the subject of concern, then they should contact the more senior manager, or HR, who will provide advice on how to resolve the matter. The Council’s staff network chairs are also available as a source of support and advice for staff.

12.5 The manager dealing with the informal grievance may need to investigate the matter before a resolution can be reached.

12.6 Should a manager become aware of a serious issue, they may choose to deal with the matter under the disciplinary procedure. Serious issues would typically represent a significant risk to an individual staff member, or a significant risk to the Council’s reputation.

12.7 The manager may propose an informal resolution to the staff member. If the staff member is not satisfied by the proposed informal resolution, they may then proceed to the formal stage by putting this in writing (see formal stage below).

* 1. Managers are advised to take a note of any meetings or investigations in the informal resolution of a grievance and to clarify the outcome with the staff member in writing.

## Formal Stage

* 1. If it is not possible to resolve a grievance informally, either because attempts at dealing with matters informally were unsuccessful, or the matter warrants matters being addressed formally from the outset, staff should raise the matter in writing with their line manager, or another more senior manager if their line manager is the subject of the grievance. If the staff member is unsure of whom to submit their formal grievance to, they may seek advice from HR who will clarify the appropriate person.

* 1. To assist this process the staff member is recommended to use the form in Appendix 2, setting out the details of the grievance and the resolution they seek. Members of staff should normally raise their grievance within 3 months of the (last) incident occurring, unless there are exceptional reasons why they haven’t been able to do so.
	2. All managers in receipt of a formal grievance must email a copy to the Employee Relations HR team at ER.Casework@towerhamlets.gov.uk, who log and monitor casework and assign a HR advisor to each formal case.
	3. **Formal Meeting**
		1. The manager will meet with the staff member to discuss their grievance and to establish what resolution they are seeking. The meeting will be held as soon as is reasonably practicable, but within 10 days of receipt of the grievance. At least 5 working days’ written notice will be given for the formal meeting.
		2. If the staff member or their trade union representative or workplace colleague is unable to attend for good reason, such as circumstances beyond their control, they should inform the manager as soon as possible. The meeting will be rearranged one further time and within 5 working days of the formal meeting. Failure to attend without explanation may result in an outcome being decided in the staff member’s absence. As an alternative, the individual may be permitted to provide a written submission.
		3. The manager will explore the details of the grievance, what action has been taken to resolve the matter thus far, and confirm what action the staff member wants to resolve the matter. Where appropriate, the meeting may be adjourned to allow further investigation to take place.
		4. The decisions and outcome from the formal meeting will:
* Uphold the grievance;
* Partly uphold the grievance
* Not uphold the grievance
* Set out what actions, if any, are proposed
	+ 1. The manager will provide the outcome in writing as soon as reasonably possible, but within 10 working days of the meeting (or the readjourned meeting if further investigation is necessary). Any outcome letter should include a right of appeal.
	1. **Investigation**
		1. The manager may decide that the grievance needs further investigation of the facts. If it is a relatively straightforward matter, they may decide to do this themselves. If the matter is more complex, they may decide to appoint an independent investigating officer.
		2. If a formal investigation is required, the manager will set out the terms of reference, including timescales, in writing to all parties before the investigation commences. This will include details of the complaint, what needs to be investigated, whether there is any potential breach of a particular policy (for example the Code of Conduct) and any other relevant details.
		3. The investigation must be objective and handled with due respect for both the complainant and the person subject to the complaint. Both parties may be accompanied by a trade union representative or work colleague at meetings with the investigating officer.
		4. The time required to complete an investigation will depend upon the complexity of the issues and the scope of the grievance. The investigation should be completed as soon as is reasonably possible, but usually within 4 working weeks. Any extensions must be justified and the relevant parties informed in writing. This will normally be no longer than a further 10 working days. If it is clear that the investigation will take longer, for example, one of the crucial parties is sick or outside agencies’ reports are needed, further extensions may be necessary. This should be discussed with the manager who commissioned the investigation, who will decide on a revised date for completion and will inform the staff member.
		5. The investigating officer’s report must set out their findings on the specific complaints made by the staff member as set out in the terms of reference. It will be given first to the manager, who will send it to the staff member ahead of the readjourned formal meeting.
		6. The investigation report must be kept confidential. The report will usually be shared in full with the staff member; however, the manager may decide to redact some elements of the report to maintain the confidentiality of witnesses.

## Appeal Stage

14.1. A staff member who remains dissatisfied with the outcome of the formal meeting can appeal to their Director (or senior manager who is appointed to deal with the matter on their behalf) in writing within 10 working days of receipt of the formal grievance outcome. This should include the grounds of appeal (i.e., the basis on which the individual is dissatisfied with the response at the formal stage), and what remedy the individual seeks.

* 1. Where any Director or senior manager has been involved at the formal stage, the appeal will be to the Corporate Director or an alternative Corporate Director (as appropriate).
	2. The manager hearing the appeal will:
* convene a meeting to consider the written submissions;
* listen to presentations from the complainant and the manager that held the formal meeting;
* determine the final outcome.
	1. The appeal manager may request that HR attend the meeting in an advisory capacity, particularly if the matter is complex. They may also have a note taker at the meeting.
	2. The appeal hearing will examine the grounds of appeal, review the outcome at the formal stage, and decide if all reasonable steps have been taken to resolve the grievance through investigation and action. It will not normally be a rehearing of all the evidence presented at the formal meeting, unless deemed necessary by the appeal manager. The remit of an appeal is to consider the matters raised in the original grievance, not to consider new issues that may have arisen.
	3. The manager that considered the grievance at the formal meeting will be asked to provide a written statement responding to the grounds of appeal within 10 working days of the request.
	4. At least 5 working days’ written notice will be given for the appeal meeting.
	5. If the staff member or their companion is unable to attend because of circumstances beyond their control, they should inform the appeal manager as soon as possible. The meeting will be rearranged one further time and within 5 working days. Failure to attend without explanation may result in an outcome being given in the staff member’s absence.
	6. The decisions and outcome from the appeal hearing will:
* Uphold the grievance;
* Partly uphold the grievance
* Not uphold the grievance
* Set out what actions, if any, are proposed
	1. The appeal manager will provide a decision in writing as soon as reasonably possible, and normally within 10 working days of the appeal meeting.
	2. This decision is the final stage of the Council’s procedure and there is no further right of appeal.

**Appendix 1**

The following list provides examples of Harassment, Discrimination and Bullying, but is not an exhaustive list:

* verbal abuse;
* insulting behaviour or personal insults;
* use of homophobic, biphobic and transphobic, sexist, racist insults or jokes, or insults or jokes about an individual's sexual orientation, disability, religion or belief or age;
* homophobic, biphobic and transphobic bullying and harassment – examples of this include using terms in a derogatory way e.g., gay and queer; asking bi people if they just ‘haven’t made up their mind’ or dismissing their sexuality because they are in a relationship with someone of the opposite sex; dead naming (using a trans person’s birth name) and misgendering; and dismissing non-binary/gender fluid identities;
* behaviour which incites racial hatred, e.g., wearing racist insignia or badges;
* offensive written or computer-generated material, including the use of email;
* unreasonable, unfair or offensive expectations about an individual's disabilities or mischievous interference with personal aids or equipment;
* unwanted physical contact ranging from touching to serious assault;
* leering and offensive gestures;
* display or circulation of sexually suggestive or racially abusive material;
* coercive or menacing behaviour which interferes with dignity and privacy or which undermines an individual's self-confidence;
* asserting a position of seniority in an aggressive, abusive or offensive manner e.g. inappropriate or derogatory remark in connection with performance of duties / responsibilities;
* withholding important work-related information;
* intrusion by pestering, spying and stalking;
* ridicule, isolation or non-cooperation, exclusion from everyday social interaction or activities.

**Appendix 2**

**Notification of Formal Grievance Form**

This form is to be used to file a formal grievance. All sections must be completed and will be used as the basis for addressing your grievance. Please answer all questions, to fully outline the issues you are aggrieved about. All supporting documents must be attached to this form when submitting your grievance. Additional information may be requested as necessary.

|  |  |
| --- | --- |
| Name: | Payroll Number: |
| Email Address | Telephone number: |
| Post Title: | Line Manager |
| Directorate: | Division: |
| Service: | Team: |

Does your grievance involve your line manager (please answer yes or no):

|  |
| --- |
| Please set out the details of your grievance (providing as much detail as possible, particularly dates, times, locations and the identities of those involved). You may attach additional sheets if required. |
| Please provide the names and contact details of any people involved in your complaint, including witnesses. |
| How have you been adversely affected by this situation? |
| What action have you taken to resolve the situation informally as outlined in the grievance procedure (if appropriate)? |
| If relevant: What was the outcome of your informal grievance resolution? |
| Resolution Sought (give details of the outcome that you are seeking: |

|  |
| --- |
| DeclarationI confirm that the information provided as part of this grievance is accurate and truthful. I am aware that raising vexatious/malicious grievances may lead to action taken against me in accordance with the Council’s disciplinary policy. |
| Signature: |
| Date: |
| This form should be submitted to your Line Manager. Where this is not possible you should submit your grievance form to the next level of management. A copy should be sent to ER.Casework@towerhamlets.gov.uk  |

*Please note that the contents of this form will be shared with the investigator, deciding manager and anyone whose actions you are complaining about (only the details that relate to them)*